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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/747,296
Filing Date: December 22, 2000
Appellant(s): LAVIAN ET AL.

Holmes W. Anderson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 05/06/2010 appealing from the Office action mailed 3/23/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1, 3 – 24.

Claim 2 has been cancelled.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading

"WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6335935	Kadambi et al.	01-2002
6633835	Moran et al.	10-2003
6707817	Kadambi et al.	03-2004
6850521	Kadambi et al.	02-2005
6728213	Tzeng et al.	04-2004
6246680	Mull et al.	06-2001
20050152369	AMbe et al.	07-2005
20060007859	Kadami et al.	01-2006
7009968	Ambe et al.	03-2006
20050201387	Willis, Steven R.	09-2005
6094435	Hoffman et al.	07-2000
6611867	Bowman-Amuah	08-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Response to Amendment

1. Claims 1, 3 – 24 are pending.

Claim 2 had been canceled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 3 – 10, 12 – 15, 17, 19 – 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. (U.S. 6094435) in view of Ambe et al. (US 7009968 B2).

Regarding Claims 1, 20, Hoffman et al. disclose a packet forwarding device *("multilayer network element" interpreted as a packet forwarding device; Fig.1, Fig. 2, element 12, col. 8, lines 55 – 60)* comprising: monitoring types of packet traffic received in the packet forwarding device *("keeps track of the addresses of the end stations that transmit a packet showing up on one of ports" interpreted as monitoring types of packet traffic received; Fig. 1, col. 7, lines 6 – 10, " address independent classes" interpreted as types of packets; col.13, lines 14 – 29);* and determine whether environmental conditions of reception of packet traffic in the packet forwarding device meet predetermined criteria *("depending on the configuration of the network or the particular protocol in use….adding*

a class identifier allows the switching element to respond to varying network situations" interpreted as determining whether environmental conditions of reception of packet traffic in the packet forwarding device meet predetermined criteria; col.13, lines 2 – 19); in response to environmental conditions meeting predetermined criteria *("when the conditions for transmission are met" interpreted as when the environmental conditions of reception of packet traffic meet the predetermined criteria; col. 10, line 28),* Hoffman et al. disclose implicitly when the type of packet traffic is unicast type, *("in a unicast route, the incoming packet would have had its destination address"; col. 17, lines 5 – 9),* selectively modifying a priority queue associated with the traffic in response to a destination parameter of the packet traffic *("whether any priority should be associated with the packet ", "the number of output ports that the packet will be output, the priority of the packet,…"; col. 15, lines 57 – 65, col. 17, lines 5 – 9, col. 18, lines 11 – 24)*; and, in response to environmental conditions meeting predetermined criteria *("when the conditions for transmission are met" is interpreted as when the environmental conditions of reception of packet traffic meet the predetermined criteria; col. 10, line 28),* Hoffman et al. also disclose implicitly when the type of traffic is multicast type *("the entry may indicate whether the packet is part of a multicast routing" interpreted as the type of traffic is multicast type; col.16, lines 64 – 65),* selectively modifying a priority queue associated with the traffic in response to a source parameter of the packet traffic *("whether any priority should be associated with the packet "; col. 15, lines 57 – 67, col. 16, lines 1 - 2, lines 61 – 67, col. 17, lines 1 – 2, 15 – 31, col. 18, lines 35 – 48),* Hoffman et al. further disclose wherein the step of selectively modifying the priority queue associated with the packet traffic includes

performing at least one of changing assignment of the packet traffic from a queue having a first priority to a queue having a second priority *("generates the queue selection" interpreted as to changing assignment of the predetermined type of packet traffic from a queue , Q1 low priority queue as best effort queue (second priority) and Q3 as high priority queue (first priority); Fig. 8, col. 19, 63 – 67, col. 20, lines 1 – 23)*, dropping packets of the packet traffic *("the queue Qi having the lowest priority, overflows, then the packets are discards" correlates to dropping packets of the packet traffic, col. 22, lines 46 – 50, 56 – 63)*, copying packets of the packet traffic, and diverting packets of the predetermined type in the packet traffic *(col. 18, lines 41 – 48)*.

Hoffman et al. do not disclose explicitly when the type of packet traffic is unicast type, selectively modifying a priority queue associated with the traffic in response to a destination parameter of the packet traffic; when the type of traffic is multicast type, selectively modifying a priority queue associated with the traffic in response to a source parameter of the packet.

Ambe et al. in the same field of endeavor teach when the type of packet traffic is unicast type, selectively modifying a priority queue associated with the traffic in response to a destination parameter of the packet traffic *("unicast packet", col. 3, lines 29 – 51, "changing the 802.1p priority in the packet Tag header….."; col. 9, lines 13 – 23, lines 26 – 36, col. 13, lines 16 – 31, Fig. 8)*; when the type of traffic is multicast type, selectively modifying a priority queue associated with the traffic in response to a source parameter of the packet traffic *("multicast packet"; col. 3, lines 29 – 51, "changing the 802.1p priority in the packet Tag header….."; col. 9, lines 13 – 23, lines 26 – 36, col. 13, lines 16 – 31,Fig.*

18). At time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the teachings of Hoffman et al. to include the features of when the type of packet traffic is unicast type, selectively modifying a priority queue associated with the traffic in response to a destination parameter of the packet traffic; when the type of traffic is multicast type, selectively modifying a priority queue associated with the traffic in response to a source parameter of the packet as taught by Ambe et al. One of ordinary skill in the art would be motivated to do so for providing a switch-on-chip solution for a network switch, capable of using ethernet, fast ethernet, and gigabit ethernet systems, wherein all of the switching hardware is disposed on a single microchip *(as suggested by Ambe et al., see col. 2, lines 44 – 49).*

Regarding Claims 3 and 23, Hoffman et al. disclose the method claimed wherein sources parameter includes a source MAC address *("an entry for the layer 2 source transmitting the packets" and "the values of the MAC address of the source" interpreted as sources parameter including a source MAC address; col. 11, lines 19 – 25, lines 44 – 47).*

Regarding Claim 4, Hoffman et al. disclose the limitation of the method of claimed wherein sources parameter includes a source VLAN *("a virtual LAN (VLAN) identifier" interpreted as sources parameter includes a source VLAN; Fig. 3, col. 9, lines 27 – 33, col. 11, lines 47 – 54).*

Regarding Claims 5, 21, Hoffman et al. disclose the method claimed wherein packet traffic is associated with its ingress port *("the input port has buffered at least the first 64 bytes of the received packet" interpreted as packet traffic is associated with its ingress port; Fig. 3, col. 9, lines 15 – 26).*

Regarding Claims 6 and 22, Hoffman et al. disclose packet traffic is based on its destination *("an entry indicating the port of the destination address" correlates to packet traffic is based on its destination; col. 11, lines 39 – 41).*

Regarding Claim 7, Hoffman et al. disclose the limitation of the method of claimed wherein the destination parameter includes a destination MAC address (*"output port need not make any modifications to the header except for inserting its MAC address" interpreted as destination of packet includes a destination MAC address; col. 15, lines 65 – 67).*

Regarding Claim 8, Hoffman et al. disclose the method claimed wherein the destination parameter includes a destination VLAN *("a VLAN requires an outgoing tag" interpreted as destination of packet includes a destination VLAN; col. 16, lines 23 – 26, lines 36 – 40).*

Regarding Claim 9, Hoffman et al. disclose the method claimed wherein the type of packet traffic is associated with its egress port *("the input port then passes information about where the packet is stored to the appropriate output port" correlates to packet traffic is associated with its egress port; col. 10, lines 18 – 31).*

*R***egarding Claim 10,** Hoffman et al. disclose the method claimed wherein the type of traffic is based on its protocol *("ARP, RSVP" interpreted as the type of traffic is based on its protocol; col. 13, lines 14 – 29).*

Regarding Claim 12, Hoffman et al. disclose the method claimed wherein the protocol of traffic includes HTTP *("http" interpreted as the protocol of traffic includes HTTP; col. 13, lines 62 – 65).*

Regarding **claim 13**, Hoffman et al. disclose a packet forwarding device *("multilayer network element" interpreted as a packet forwarding device; Fig.1, Fig. 2, element 12, col. 8, lines 55 – 60)* method comprising: monitoring environmental conditions of reception of packet traffic in the packet forwarding device *("keeps track of the addresses of the end stations that transmit a packet showing up on one of ports" interpreted as monitoring environmental conditions of reception of packet traffic; Fig. 1, col. 7, lines 6 – 10, "address independent classes" interpreted as types of packets; col.13, lines 14 – 29);* determining whether environmental conditions of reception of packet traffic in the packet forwarding device meet predetermined criteria *("depending on the configuration of the network or the particular protocol in use….adding a class identifier allows the switching element to respond to varying network situations" interpreted as determining whether environmental conditions of reception of packet traffic in the packet forwarding device meet predetermined criteria; col. 13, lines 2 – 19)*, and when the environmental conditions of reception of packet traffic meet the predetermined criteria *("when the conditions for transmission are met" is interpreted as when the environmental conditions of reception of packet traffic meet the predetermined criteria; col. 10, line 28)*, modifying a priority queue to associate with the packet traffic using parameter information associated with a type of packet traffic (*("whether any priority should be associated with the packet ", "the number of output ports that the packet will be output, the priority of the packet,…"; col. 15, lines 57 – 65, col. 17, lines 5 – 9, col. 18, lines 11 – 24)*; Hoffman et al. disclose implicitly wherein the type of packet traffic includes unicast and multicast traffic *("whether the packet is part of a multicast routing" and "in a unicast route" interpreted as determining whether a type of*

packet traffic received in the packet forwarding device is a predetermined type; col. 16, lines 62 – 67, col. 17, lines 1 – 9), and wherein source parameter information is used to associate priority queues with packet traffic for multicast traffic (*"whether any priority should be associated with the packet "; col. 15, lines 57 – 67, col. 16, lines 1 - 2, lines 61 – 67, col. 17, lines 1 – 2, 15 – 31, col. 18, lines 35 – 48, "the entry may indicate whether the packet is part of a multicast routing" interpreted as the type of traffic is multicast type; col.16, lines 64 – 65)* and destination parameter information is used to associate priority queues with packet traffic for unicast traffic *("whether any priority should be associated with the packet ", "the number of output ports that the packet will be output, the priority of the packet,…"; col. 15, lines 57 – 65, col. 17, lines 5 – 9, col. 18, lines 11 – 24, "in a unicast route, the incoming packet would have had its destination address"; col. 17, lines 5 – 9)*, and Hoffman et al. further disclose wherein the step of selectively modifying the priority includes performing at least one of changing assignment of the packet traffic from a queue having a first priority to a queue having a second priority ("generates the queue selection" interpreted as changing assignment of the predetermined type of packet traffic from a queue , Q1 low priority queue as best effort queue (second priority) and Q3 as high priority queue (first priority); Fig. 8, col. 19, 63 – 67, col. 20, lines 1 – 23), dropping packets of the packet traffic ("the queue Qi having the lowest priority, overflows, then the packets are discards" interpreted as dropping packets of the packet traffic, column 22, lines 46 – 50, 56 – 63), copying packets of the packet traffic, and diverting packets of the predetermined type in the packet traffic (col. 18, lines 41 – 48).

Hoffman et al. do not disclose explicitly wherein the type of packet traffic includes unicast and multicast traffic, and wherein source parameter information is used to associate priority queues with packet traffic for multicast traffic and destination parameter information is used to associate priority queues with packet traffic for unicast traffic.

Ambe et al. in the same field of endeavor teach wherein the type of packet traffic includes unicast and multicast traffic, and wherein source parameter information is used to associate priority queues with packet traffic for multicast traffic and destination parameter information is used to associate priority queues with packet traffic for unicast traffic *("unicast packet", "multicast packet"; col. 3, lines 29 – 51, "changing the 802.1p priority in the packet Tag header….."; col. 9, lines 13 – 23, lines 26 – 36, col. 13, lines 16 – 31, Fig. 8, Fig. 18).* At time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the teachings of Hoffman et al. to include the features of wherein the type of packet traffic includes unicast and multicast traffic, and wherein source parameter information is used to associate priority queues with packet traffic for multicast traffic and destination parameter information is used to associate priority queues with packet traffic for unicast traffic as taught by Ambe et al. One of ordinary skill in the art would be motivated to do so for providing a switch-on-chip solution for a network switch, capable of using ethernet, fast ethernet, and gigabit ethernet systems, wherein all of the switching hardware is disposed on a single microchip *(as suggested by Ambe et al., see col. 2, lines 44 – 49).*

Regarding Claim 14, Hoffman et al. disclose the method claimed wherein the environmental conditions meeting the predetermined criteria include time of day

("monitored one at a time" and "the scheme detects misbehavior of flows over a period of time" interpreted as environmental conditions meeting the predetermined criteria include time of day; col. 22, lines 8 – 16).

Regarding Claim 15, Hoffman et al. disclose the environmental conditions meeting the predetermined criteria including network configuration changes *("depending on the configuration of the network" and "allows the switching element to responds to varying network situation" interpreted as the environmental conditions meeting the predetermined criteria including network configuration changes; col. 13, lines 11 –19).*

Regarding claim 17, Hoffman et al. disclose the method claimed wherein the network configuration changes include network congestion *("congestion may occur in the network element" interpreted as network configuration changes include network congestion; col. 21, lines 37 – 41).*

Regarding Claim 19, Hoffman et al. disclose the environmental conditions meeting the predetermined criteria including line use of high level protocols *("address independent classes" interpreted as environmental conditions meeting the predetermined criteria; "ARP, RSVP" or "http" as high level protocols; col. 13, lines 14 – 29, lines 62 – 65).*

Regarding Claim 24, Hoffman et al. disclose the method claimed wherein at least some of the traffic patterns are based on specified IP flows *("when the class indicates that the packet is of a class hardware routable IP" correlates to the traffic patterns are based on specified IP flows; col. 13, lines 20 – 29; col. 14, lines 29 – 31).*

4. Claims 11, 16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. (U.S. 6094435) and Ambe et al. (US 7009968 B2) as applied to claims 1, 3 – 10, 12 – 15 above, and further in view of Bowman-Amuah (US 6611867 B1).

Regarding Claim 11, Hoffman et al. disclose a packet forwarding device *("multilayer network element" interpreted as a packet forwarding device; Fig.1, Fig. 2, element 12, col. 8, lines 55 – 60).* Hoffman et al. and Ambe et al. do not disclose explicitly the protocol of traffic includes FTP.

Bowman-Amuah in the same field of endeavor teaches a packet forwarding device *(Fig. 1A, element Data Access Points; col. 26, lines 47 – 56)* and the protocol of traffic including FTP ("internet services such as FTP" correlates to the protocol of traffic including FTP; col. 54, lines 61 – 67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Hoffman et al. and Ambe et al. to include the features of a protocol of traffic includes FTP as taught by Bowman-Amuah in order to provide a hybrid network be provisioned in accordance with the network problems and service requests *(as suggested by Bowman-Amuah, see col. 2, lines 17 – 19).*

Regarding Claim 16, Hoffman et al. disclose a packet forwarding device *("multilayer network element" interpreted as a packet forwarding device; Fig.1, Fig. 2, element 12, col. 8, lines 55 – 60).* Hoffman et al. also teach network configuration changes *("depending on the configuration of the network" and "allows the switching element to responds to varying network situation" interpreted as the environmental*

conditions meeting the predetermined criteria including network configuration changes; col. 13, lines 11 –19).

Hoffman et al. and Ambe et al. do not disclose explicitly the method claimed the network configuration changes including network failures.

Bowman-Amuah in the same field of endeavor teaches the method claimed herein the network configuration changes including network failures *("if non-service affecting network failure occurs" interpreted as network configuration changes including network failures; Fig. 35, col. 77, lines 45 – 52).* It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Hoffman et al. and Ambe et al. to include the features of claimed herein the network configuration changes including network failures as taught by Bowman-Amuah in order to provide a network management layer may handle the failure without notifying the Service management Layer (SML) *(as suggested by Bowman-Amuah, see col.77, lines 50 – 52).*

Regarding Claim 18, Hoffman et al. disclose a packet forwarding device *("multilayer network element" interpreted as a packet forwarding device; Fig.1, Fig. 2, element 12, col. 8, lines 55 – 60).* Hoffman et al. also teach network configuration changes *("depending on the configuration of the network" and "allows the switching element to responds to varying network situation" interpreted as the environmental conditions meeting the predetermined criteria including network configuration changes; col. 13, lines 11 –19).*

Hoffman et al. and Ambe et al. do not disclose explicitly the method of claimed wherein the network configuration changes including network error rates.

Bowman-Amuah in the same field of endeavor teaches claimed wherein the network configuration changes including network error rates *("a poor error rate at these speeds" interpreted as including network error rates; col. 48, lines 36 – 44)*. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Hoffman et al. and Ambe et al. to include the method of claimed wherein the network configuration changes including network error rates such as that taught by Bowman-Amuah in order to provide a hybrid network be provisioned in accordance with the network problems and service requests *(as suggested by Bowman-Amuah, see col. 2, lines 17 – 19)*.

(10) Response to Argument

A. The cited combination fails to teach or suggest dynamic modification of priority level in response to a parameter of the packet traffic as recited in claims 1, 3-10, 12-15, 17, and 19-24.

In the Appellant Appeal Brief (pages 10 – 12), appellant argues that "The distinguishing limitations discussed above are recited in the independent claims as follows. Claim 1 recites "when the type of packet traffic is unicast type, selectively modifying a priority of the traffic in response to a destination parameter of the packet traffic; and when the type of packet traffic is multicast type, selectively modifying the priority of the traffic in response to a source parameter of the packet traffic." (emphasis added) Claim 13 recites "modifying a priority of the packet traffic using parameter information associated with a type of packet traffic, wherein the type of packet traffic includes unicast and multicast traffic, and wherein source

The Office argues that Hoffman discloses selectively modifying priority of the traffic in response to a destination parameter of the packet traffic when the type of packet traffic

is unicast type by stating "whether any priority should be associated with the packet ... the number of output ports that the packet will output, the priority of the packet." The Office also argues that Hoffman discloses selectively modifying the priority of the traffic in response to a source parameter of the packet traffic when the type of packet traffic is multicast type by stating "the entry may indicate whether the packet is part of a multicast routing" and "whether any priority should be associated with the packet." Applicant cannot find the quoted statements in the cited passages and does not see how they can be interpreted as suggesting anything more than that priority would be changed for both unicast and multicast packets. Hoffman provides a succinct description in the abstract by stating that:

> When output queues exceed or meet a threshold value below the queue's capacity packets are randomly discarded. When the queue becomes full, the network element determines which flow caused the queue to overflow. The priority of that flow is lowered. In a multicast packet, the packet may have different priorities at each output port. Scheduling of multiple output queues at each output port uses a weight round robin approach that allocates a weight portion of packets to transmit at each time interval.

Note that lowering the priority of the flow that causes a queue to overflow makes no distinction between unicast and multicast packets, nor any distinction between modifying priority of the traffic in response to a destination parameter for a unicast packet and in response to a source parameter for a multicast packet. Further, the suggestion of a multicast packet having different priorities at each output port suggests that priority for multicast packets is based on some factor associated with the destination rather than a source parameter as recited in the claims. Again, packet prioritization and unicast/multicast types are well known, but the Office has failed to establish that the recited relationship between those features is taught or suggested by the cited references. The Office improperly attempts to interrelate those features without support from the references and with the benefit of hindsight."

In response to applicant's remark/argument, examiner respectfully disagrees.

Examiner contends the combined system of references Hoffman and Ambe teaches the claimed subject matters of selectively modifying priority in response to the destination parameter of the packet traffic when the type of packet traffic is unicast type,

and selectively modifying the priority in response to a source parameter of the packet traffic when the type of packet traffic is multicast type.

As stated in the office action above, Hoffman et al. teach "when the type of packet traffic is unicast type" as "in a unicast route, the incoming packet would have had its destination address"; see Hoffman et al col. 17, lines 5 – 9, examiner interpreted "selectively modifying a priority queue associated with the traffic in response to a destination parameter of the packet traffic" as "whether any priority should be associated with the packet ", "the number of output ports that the packet will be output, the priority of the packet,…"; see Hoffman et al., col. 15, lines 57 – 65, col. 17, lines 5 – 9, col. 18, lines 11 – 24; further, in col. 7, lines 60 – 67, col. 8, lines 1 – 3, show the modification to the unicast packet, after be determined what actions are necessary on the packet. Hoffman et al. also disclose "when the type of traffic is multicast type" as "the entry may indicate whether the packet is part of a multicast routing" interpreted as the type of traffic is multicast type; see Hoffman et al., col.16, lines 64 – 65, "selectively modifying a priority queue associated with the traffic in response to a source parameter of the packet traffic" is interpreted as "whether any priority should be associated with the packet "; col. 15, lines 57 – 67, col. 16, lines 1 - 2, lines 61 – 67, col. 17, lines 1 – 2, 15 – 31, col. 18, lines 35 – 48. For clarification, furthermore, as indicated in col. 22, lines 35 – 63, Hoffman et al. teach dynamic flows of classes of traffic as well as queues assignment for congestion control of traffic flow.

Reciting the limitations using reference Ambe et al., Examiner further interpreted "selectively modifying priority in response to the destination parameter of the packet traffic when the type of packet traffic is unicast type, and selectively modifying the priority in response to a source parameter of the packet traffic when the type of packet traffic is multicast type" as "information including source address and destination address,…determine whether the incoming data packet is a unicast packet, a multicast packet,…..depending on the outcome different actions are taken,,….change the 802.1p priority….", see Ambe et al., col. 9, lines 13 – 23, lines 26 – 36, col. 13, lines 16 – 31,Fig 8, Fig. 18. Figure 8 is recited and referred to, for the figure is directed to source and

Destination search for unicast and multicast and priority being modified, see col. 16, lines 53 – 67, col. 17, lines 1 - 3, 42 - 55.

Furthermore, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

A. Claims 11, 16 and 18 further distinguish the invention and are allowable for the same reasons as their respective base claims.

Appellent merely argues "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Claims 11, 16 and 18 are therefore allowable for the reasons stated above with regard to their respective base claims."

In response to applicant's remark/argument, examiner respectfully disagrees.

Examiner contends the combined system of references Hoffman and Ambe et al. teaches all the claimed subject matters as disclosed in claims 1, 13, 20.

Since the claims 1, 13, 20 are rejected under 35 U.S.C. 103, and the claims 11, 16, 18 are dependent upon independent claim 13. Hence the claims are also rejected under 35 U.S.C. 103.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

For the above reasons, it is believed that the rejections, claims 1, 3 – 24 should be submitted.

Respectfully submitted,

/Andrew C. Lee/
Patent Examiner, Art Unit 2476

Conferees:

/Ayaz Sheikh/

Ayaz R. Sheikh
Supervisory Patent Examiner, Art Unit 2476

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Phirin Sam
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